requirement would not be inconsistent with the Exchange's obligations under the Exchange Act to prevent fraudulent or manipulative acts and practices because Exchange member organizations are subject to the same supervisory requirements as FINRA member firms, including an annual certification requirement regarding compliance and supervisory processes set forth in Rule 3130. To the extent the Exchange has proposed changes that differ from the FINRA version of the Exchange rules, such changes are generally technical in nature and do not change the substance of the proposed rules. The Exchange also believes that the proposed conforming changes will update and add specificity to the Exchange's rules, which will promote just and equitable principles of trade and help to protect investors.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[26] the Exchange does not believe that the proposed rule changes will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule changes are not intended to address competitive issues but rather to achieve greater transparency and consistency between the Exchange's rules and FINRA's requirements concerning payments to unregistered persons, the effect of suspensions, revocations, cancellations, bars or other disqualifications, and research analyst annual attestation requirements.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [27] and Rule 19b–4(f)(6) thereunder.[28] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [29] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[30] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [31] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2016–50 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2016–50. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2016–50 and should be submitted on or before August 16, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[32]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–17584 Filed 7–25–16; 8:45 am]

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[26] 15 U.S.C. 78f(b)(8).

[27] 15 U.S.C. 78s(b)(3)(A)(iii).

[28] 17 CFR 240.19b–4(f)(6).

[29] 17 CFR 240.19b–4(f)(6).

[30] 17 CFR 240.19b–4(f)(6)(iii).

[31] 15 U.S.C. 78s(b)(2)(B).

[32] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78375; File No. SR–BX–2016–034]

Self-Regulatory Organizations; NASDAQ BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Affiliated Entities

July 20, 2016.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 8, 2016, NASDAQ BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Exchange's transaction fees at chapter XV to permit certain affiliated market participants to aggregate eligible volume to all pricing in chapter XV, section 2(1) for which a volume threshold or volume percentage is required to obtain the pricing.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqbx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to permit certain affiliated market participants to aggregate volume in chapter XV, section 2(1) for which a volume threshold or volume percentage is required to obtain the pricing and qualify for various pricing incentives. The Exchange's proposal is intended to incentivize Participants to submit for execution a greater amount of order flow on BX to obtain more advantageous pricing.

Affiliated Entity

The Exchange proposes to add three definitions to chapter XV of BX Options Rules. The Exchange proposes to define the terms ''Appointed MM,'' ''Appointed OFP'' and ''Affiliated Entity.'' The Exchange proposes to define the term ''Appointed MM'' as a BX Options Market Maker [3] who has been appointed by an Order Flow Provider (''OFP'') for purposes of qualifying as an Affiliated Entity. An OFP means is a Participant that submits orders, as agent or principal, to the Exchange.[4] The Exchange proposes to define the term ''Appointed OFP'' as an OFP who has been appointed by a BX Options Market Maker for purposes of qualifying as an Affiliated Entity. The Exchange proposes to define the term ''Affiliated Entity'' as a relationship between an Appointed MM and an Appointed OFP for purposes of aggregating eligible volume for pricing in chapter XV, section 2(1) for which a volume threshold or volume percentage is required to qualify for higher rebates or lower fees. In order to become an Affiliated Entity, BX Options Market Makers and OFPs will be required to send an email to the Exchange to appoint their counterpart, at least 3 business days prior to the last day of the month to qualify for the next month.[5] For example, with this proposal, market participants may submit emails to the Exchange to become Affiliated Entities eligible to qualify for discounted pricing starting August 1, 2016, provided the emails are sent at least 3 business days prior to the first business day of August 2016. The Exchange will acknowledge receipt of the emails and specify the date the Affiliated Entity is eligible for applicable pricing in chapter XV, section 2(1). Each Affiliated Entity relationship will commence on the 1st of a month and may not be terminated prior to the end of any month. An Affiliated Entity relationship will terminate after a one (1) year period, unless either party terminates earlier in writing by sending an email to the Exchange at least 3 business days prior to the last day of the month to terminate for the next month. Affiliated Entity relationships must be renewed annually. For example, if the start date of the Affiliated Entity relationship is August 1, 2016, the counterparties may determine to commence a new relationship as of August 1, 2017 by sending two new emails by July 27, 2017 (3 business days prior to the end of the month). Participants under Common Ownership [6] may not qualify as a counterparty comprising an Affiliated Entity. Each Participant may qualify for only one (1) Affiliated Entity relationship at any given time.

As proposed, an Affiliated Entity shall be eligible to aggregate their volume for purposes of qualifying for certain pricing in chapter XV, section 2(1) for which a volume threshold or volume percentage is required to obtain a higher rebate or lower fee. With this proposal, Affiliated Entities will be eligible to tier pricing in section 2(1) in both Penny and Non-Penny Pilot Options.[7]

Chapter XV, Section 2(1)—Penny Pilot and Non-Penny Pilot Options Pricing

Currently, the Exchange offers Customers,[8] when trading with Non-Customers,[9] BX Options Market Makers or Firms [10] the ability to obtain higher Penny Pilot Options Rebates to Add Liquidity in Penny Pilot Options Tiers Schedule which exclude Select Symbols (''non-Select Symbols'') with a tiered pricing model.[11] Also, the Exchange offers Customers, when trading with Customers, Non-Customers, BX Options Market Makers or Firms the ability to obtain higher Penny Pilot Options Rebates to Remove Liquidity in non-Select Symbols with a tiered pricing model.[12] Finally, the Exchange offers BX Options Market Makers, when trading with Customers the ability to obtain lower Penny Pilot Options Fees to Remove Liquidity in non-Select Symbols with a tiered pricing model. [13] This pricing is reflected at chapter XV, section 2(1) and would be subject to aggregation by Affiliated Entities.

The Exchange offers Customers, when trading with Non-Customers, BX

[3] The term ''BX Options Market Maker'' or (''M'') is a Participant that has registered as a Market Maker on BX Options pursuant to chapter VII, Section 2, and must also remain in good standing pursuant to chapter VII, section 4. In order to receive Market Maker pricing in all securities, the Participant must be registered as a BX Options Market Maker in at least one security.

[4] Market Makers submitting quotes to the Exchange shall not be considered Appointed OFPs for the purpose of becoming an Affiliated Entity.

[5] The Exchange shall issue an Options Trader Alert specifying the email address and details required to apply to become an Affiliated Entity. Once the Exchange receives both emails, from the Affiliated [sic] MM and the Affiliated [sic] OFP, the Exchange will send a confirming email with the date of approval of the one (1) year term.

[6] The term ''Common Ownership'' means Participants under 75% common ownership or control. *See* chapter XV. Participants that are under 75% common ownership or control shall be considered under Common Ownership for purposes of pricing.

[7] *See* BX Rules at Section 2(1) of chapter XV.

[8] The term ''Customer'' or (''C'') applies to any transaction that is identified by a Participant for clearing in the Customer range at The Options Clearing Corporation which is not for the account of broker or dealer or for the account of a ''Professional'' (as that term is defined in chapter I, section 1(a)(48)).

[9] A Non-Customer includes a Professional, Broker-Dealer and Non-BX Options Market Maker.

[10] The term ''Firm'' or (''F'') applies to any transaction that is identified by a Participant for clearing in the Firm range at The Options Clearing Corporation.

[11] The Penny Pilot Options Rebates to Add Liquidity in non-Select Symbols ranges from $0.00 to $0.20 per contract.

[12] The Penny Pilot Options Rebates to Remove Liquidity in non-Select Symbols ranges from $0.00 to $0.35 per contract.

[13] Penny Pilot Options Fees to Remove Liquidity in non-Select Symbols ranges from $0.30 to $0.39 per contract.

Options Market Makers or Firms, the ability to obtain higher Penny Pilot Options Rebates to Add Liquidity in Select Symbols [14] with a tiered pricing model.[15] The Exchange offers BX Options Market Makers, when trading with Customers, the ability to obtain a lower Penny Pilot Options Fees to Add Liquidity in Select Symbols with a tiered pricing model.[16] The Exchange offers Customers, when trading with Non-Customers, BX Options Market Makers, Customers or Firms, the ability to obtain higher Penny Pilot Options Rebates to Remove Liquidity in Select Symbols with a tiered pricing model.[17] The Exchange offers BX Options Market Makers, when trading with Customers, the ability to obtain a lower Penny Pilot Options Fees to Remove Liquidity in Select Symbols with a tiered pricing model.[18] Finally, the Exchange offers BX Options Market Makers, when trading with Non-Customers, BX Options Market Makers or Firms, the ability to obtain lower Fees to Add Liquidity in Select Symbols with a tiered pricing model.[19] This pricing is reflected at chapter XV, section 2(1) and would be subject to aggregation by Affiliated Entities.

Currently, the Exchange offers Customers, when trading with Non-Customers, BX Options Market Makers or Firms, the ability to obtain higher Non-Penny Pilot Options Rebates to Add Liquidity with a tiered pricing model.[20] Also, the Exchange offers BX Options Market Makers, when trading with Customers, the ability to obtain lower Non-Penny Pilot Options Fees to Remove Liquidity with a tiered pricing model.[21] This pricing is reflected at chapter XV, section 2(1) and would be subject to aggregation by Affiliated Entities.

The pricing noted herein demonstrates instances where the tiered pricing would provide a higher rebate or lower fee. In those cases where the pricing is the same for all tiers, the aggregation would not yield a higher rebate or lower fee.

Currently, the Exchange also offers Customers, when trading with Non-Customers, BX Options Market Makers, Customers or Firms, the ability to obtain higher Rebates to Remove Liquidity in SPY Options in a tiered pricing model.[22] This pricing is reflected at chapter XV, section 2(1) and would be subject to aggregation by Affiliated Entities.

The Exchange's proposal would incentivize certain Participants, who are not by definition under Common Ownership, to enter into an Affiliated Entity relationship for the purpose of aggregating Customer volume to qualify for reduced Penny Pilot Options and non-Penny Pilot Options fees and higher Penny Pilot Options and non-Penny Pilot Options rebates. With respect to the pricing and the Affiliated Entity relationship, Appointed MMs would receive lower fees and Appointed OFPs would receive higher rebates, as applicable with this aggregated pricing.

2. Statutory Basis

The Exchange believes that its proposal to amend its Pricing Schedule is consistent with section 6(b) of the Act,[23] in general, and furthers the objectives of section 6(b)(4) and (b)(5) of the Act,[24] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the Exchange operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [25]

Likewise, in *NetCoalition* v. *Securities and Exchange Commission* [26] (''NetCoalition'') the D.C. Circuit upheld the Commission's use of a market-based approach in evaluating the fairness of market data fees against a challenge claiming that Congress mandated a cost-based approach.[27] As the court emphasized, the Commission ''intended in Regulation NMS that 'market forces, rather than regulatory requirements' play a role in determining the market data . . . to be made available to investors and at what cost.'' [28]

Further, ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .'' [29] Although the court and the SEC were discussing the cash equities markets, the Exchange believes that these views apply with equal force to the options markets.

The Exchange's proposal to amend chapter XV, section 2 to add the definitions of ''Appointed MM,'' ''Appointed OFP'' and ''Affiliated Entity'' is reasonable because the Exchange is proposing to identify the applicable market participants that may qualify to aggregate volume as an Affiliated Entity. Further the Exchange seeks to make clear the manner in which Participants may participate on the Exchange as Affiliated Entities by setting timeframes for communicating agreements among market participants and terms of early termination. The Exchange also clearly states that no Participant under Common Ownership may become a counterparty to an Affiliated Entity. Any Participant who meets the definition of Common Ownership shall not be eligible to become an Affiliated Entity. The Exchange believes that these terms are reasonable because they would allow

[14] The Select Symbols are: ASHR, DIA, DXJ, EEM, EFA, EWJ, EWT, EWW, EWY, EWZ, FAS, FAZ, FXE, FXI, FXP, GDX, GLD, HYG, IWM, IYR, KRE, OIH, QID, QLD, QQQ, RSX, SDS, SKF, SLV, SRS, SSO, TBT, TLT, TNA, TZA, UNG, URE, USO, UUP, UVXY, UYG, VXX, XHB, XLB, XLE, XLF, XLI, XLK, XLP, XLU, XLV, XLY, XME, XOP, XRT. *See* BX chapter XV, section 2(1) pricing.

[15] Penny Pilot Options Rebates to Add Liquidity in Select Symbols ranges from $0.00 to $0.25 per contract.

[16] Penny Pilot Options Fees to Add Liquidity in Select Symbols ranges from $0.29 to $0.44 per contract.

[17] Penny Pilot Options Rebates to Remove Liquidity in Select Symbols ranges from $0.00 to $0.37 per contract.

[18] Penny Pilot Options Fees to Remove Liquidity in Select Symbols ranges from $0.25 to $0.42 per contract.

[19] Penny Pilot Options Fees to Add Liquidity in Select Symbols ranges from $0.00 to $0.14 per contract.

[20] Non-Penny Pilot Options Rebates to Add Liquidity ranges from $0.00 to $0.20 per contract.

[21] Non-Penny Pilot Options Fees to Remove Liquidity ranges from $0.60 to $0.89 per contract.

[22] The SPY rebate ranges from $0.10 to $0.51 per contract.

[23] 15 U.S.C. 78f(b).

[24] 15 U.S.C. 78f(b)(4), (5).

[25] Securities Exchange Act Release No. 51808 (June 29, 2005), 70 FR 37496 at 37499 (File No. S7–10–04) (''Regulation NMS Adopting Release'').

[26] *NetCoalition* v. *SEC,* 615 F.3d 525 (D.C. Cir. 2010).

[27] *See id.* at 534–535.

[28] *See id.* at 537.

[29] *See id.* at 539 (quoting Securities Exchange Act Commission at Release No. 59039 (December 2, 2008), 73 FR 74770 at 74782–74783 (December 9, 2008) (SR–NYSEArca–2006–21)).

Participants to elect to become a counterparty to an Affiliated Entity, provided they are not under Common Ownership.

The Exchange's proposal to amend chapter XV, section 2 to add the definitions of ''Appointed MM,'' ''Appointed OFP'' and ''Affiliated Entity'' is equitable and not unreasonably discriminatory because all Participants that are not under Common Ownership by definition may choose to enter into an Affiliated Entity relationship.

Chapter XV, Section 2(1)—Penny Pilot and Non-Penny Pilot Options Pricing

The Exchange's proposal to permit Affiliated Entities to aggregate volume for purposes of qualifying Appointed OFPs for higher Penny Pilot and Non-Penny Pilot Options, including SPY, rebates [30] and qualifying Appointed MMs for lower fees [31] is reasonable because it will attract additional Customer and non-Customer order flow to the Exchange. Customer liquidity benefits all market participants by providing more trading opportunities, which attracts BX Options Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. Also, the Exchange is incentivizing Participants to send non-Customer order flow to BX, which order flow will benefit all Participants because they may interact with the liquidity. Market participants directing order flow as OFPs may be eligible to qualify for higher rebates with this proposal as a result of aggregating volume with an Appointed MM and thereby qualifying for higher rebates. Permitting Participants to affiliate for purposes of qualifying Appointed OFPs for higher rebates and qualifying Appointed MMs for lower fees may also encourage Affiliated Entities to incentivize each other to attract and seek to execute more volume on BX. In turn, market participants would benefit from the increased liquidity with which to interact and potentially tighter spreads on orders. Overall, incentivizing market participants with increased opportunities to earn higher rebates or lower fees may increase the quality of the liquidity available on BX.

The Exchange's proposal to permit Affiliated Entities to aggregate volume for purposes of qualifying Appointed OFPs for higher Penny Pilot and Non-Penny Pilot Options, including SPY, rebates and qualifying Appointed MMs for lower fees is equitable and not unfairly discriminatory because all BX Participants, other than those that meet the definition of Common Ownership, may elect to become an Affiliated Entity as either an Appointed MM or an Appointed OFP.[32] Also, each BX Participant may participate in only one Affiliated Entity relationship at a given time, which imposes a measure of exclusivity among market participants, allowing each party to rely on the other's executed volume on BX to receive a corresponding benefit in terms of a higher rebate or lower fee. Any market participant that by definition is not under Common Ownership may elect to become a counterparty of an Affiliated Entity. Also, BX Options Market Makers are valuable market participants that provide liquidity in the marketplace and incur costs that other market participants do not incur. BX Options Market Makers are subject to burdensome quoting obligations [33] to the market that do not apply to other market participants. Incentivizing these market participants to execute volume on BX may result in tighter spreads.

The Exchange's proposal to exclude Participants that are under Common Ownership from qualifying as an Affiliated Entity is reasonable because Participants under Common Ownership may aggregate volume today for purposes of chapter XV, section 2(1) pricing.[34] The Exchange's proposal to exclude Participants that by definition are under Common Ownership from qualifying as an Affiliated Entity is equitable and not unfairly discriminatory because the Exchange will apply all qualifications in a uniform manner when approving Affiliated Entities. Excluding Participants under Common Ownership from also qualifying as an Affiliated Entity is equitable and not unfairly discriminatory because they are able to aggregate volume today and qualify for higher rebates or lower fees.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange does not believe that permitting Affiliated Entities to aggregate volume to qualify for certain rebates and reduced fees will impose any undue burden on competition, as discussed below.

The Exchange operates in a highly competitive market in which many sophisticated and knowledgeable market participants can readily and do send order flow to competing exchanges if they deem fee levels or rebate incentives at a particular exchange to be excessive or inadequate. Additionally, new competitors have entered the market and still others are reportedly entering the market shortly. These market forces ensure that the Exchange's fees and rebates remain competitive with the fee structures at other trading platforms.

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any

[30] The Exchange would permit Affiliated Entities to aggregate volume to obtain higher Penny Pilot Options Rebates to Add Liquidity in non-Select Symbols, Penny Pilot Options Rebates to Remove Liquidity in non-Select Symbols, Penny Pilot Options Rebates to Add Liquidity in Select Symbols, Penny Pilot Options Rebates to Remove Liquidity in Select Symbols and Non-Penny Pilot Options Rebates to Add Liquidity.

[31] The Exchange would permit Affiliated Entities to aggregate volume to obtain lower Penny Pilot Options Fees to Remove Liquidity in non-Select Symbols, Penny Pilot Options Fees to Add Liquidity in Select Symbols, Penny Pilot Options Fees to Remove Liquidity in Select Symbols, Penny Pilot Options Fees to Remove Liquidity in Select Symbols and Non-Penny Pilot Options Fees to Remove Liquidity.

[32] Both Participants must elect each other to qualify as an Affiliated Entity for one year. Participation is effected by an agreement of both parties. One party may elect to terminate the agreement at any time.

[33] Pursuant to BX Rules at chapter VII, section 5, entitled ''Obligations of Market Makers,'' in registering as a market maker, an Options Participant commits himself to various obligations. Transactions of a BX Options Market Maker must constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and BX Options Market Makers should not make bids or offers or enter into transactions that are inconsistent with such course of dealings. Further, all BX Options Market Makers are designated as specialists on BX for all purposes under the Act or rules thereunder. *See* chapter VII, section 2.

[34] *See* BX Rules at chapter XV for Common Ownership.

burden on competition is extremely limited.

In sum, if the changes proposed herein are unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets. In terms of inter-market competition, the Exchange notes that other options markets have similar incentives in place to attract volume to their markets.[35]

The Exchange's proposal to amend chapter XV, section 2 to add the definitions of ''Appointed MM,'' ''Appointed OFP'' and ''Affiliated Entity'' does not impose an undue burden on competition because these definitions apply to all Participants uniformly.

Chapter XV, Section 2(1)—Penny Pilot and Non-Penny Pilot Options Pricing

In terms of intra-market competition, the Exchange does not believe that its proposal to permit counterparties of an Affiliated Entity to aggregate volume for purposes of qualifying Appointed OFPs for higher rebates, including SPY, and qualifying Appointed MMs for lower fees within chapter XV, section 2(1) imposes an undue burden on intra-market competition because all BX Participants, other than those under Common Ownership, may become an Affiliated Entity as either an Appointed MM or an Appointed OFP. Also, each BX Participant may participate in only one Affiliated Entity relationship at a given time, which imposes a measure of exclusivity among market participants, allowing each party to rely on the other's executed BX volume on BX to receive a corresponding benefit in terms of a higher rebate or lower fee. The Exchange will apply all qualifications in a uniform manner to all market participants that elect to become counterparties of an Affiliated Entity. Any market participant that by definition is a Participant under Common Ownership may not become a counterparty of an Affiliated Entity. Also, BX Options Market Makers are valuable market participants that provide liquidity in the marketplace and incur costs that other market participants do not incur. BX Options Market Makers are subject to burdensome quoting obligations [36] to the market that do not apply to other market participants. Incentivizing these market participants to execute volume on BX may result in tighter spreads. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. Appointed OFPs directing order flow to the Exchange may be eligible to qualify for a higher rebate and Appointed MMs may be eligible to qualify for lower fees, with this proposal, as a result of aggregating volume. Permitting Participants to affiliate for purposes of qualifying for chapter XV, section 2(1) higher rebates or lower fees may also encourage the counterparties that comprise the Affiliated Entities to incentivize each other to attract and seek to execute more volume on BX.

The Exchange's proposal to exclude Participants that are under Common Ownership from becoming an Affiliated Entity does not impose and [sic] undue burden on intra-market competition because Participants under Common Ownership may aggregate volume today for purposes of qualifying for higher rebates or lower fees.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act.[37]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BX–2016–034 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2016–034. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*).

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–BX–2016–034 and should be submitted on or before August 16, 2016.

[35] *See* NYSE MKT LLC's (''NYSE Amex'') pricing at NYSE Amex Options Fee Schedule). NYSE Amex permits aggregation of volume to qualify for the Amex Customer Engagement or ACE Program. *See* Bats BZX Exchange, Inc.'s (''BZX'') fee schedule. BZX permits aggregation of volume to qualify for tiered pricing. *See* the Chicago Board Options Exchange Incorporated (''CBOE'') Fees Schedule. CBOE permits aggregation of volume to qualify for credits available under an Affiliated Volume Plan or ''AVP.''

[36] *See* note 33 above.

[37] 15 U.S.C. 78s(b)(3)(A)(ii).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[38]

Robert W. Errett,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78373; File No. SR–NYSEArca–2016–97]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change Relating to the Listing and Trading of Shares of PowerShares Government Collateral Pledge Portfolio Under NYSE Arca Equities Rule 8.600

July 20, 2016.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on July 6, 2016, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade shares of the following under NYSE Arca Equities Rule 8.600 (''Managed Fund Shares''): PowerShares Government Collateral Pledge Portfolio. The proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade shares (''Shares'') of the following under NYSE Arca Equities Rule 8.600,[4] which governs the listing and trading of Managed Fund Shares: [5] PowerShares Government Collateral Pledge Portfolio (''Fund''). The Fund is a series of the PowerShares Actively Managed Exchange Traded Trust (the ''Trust'').[6] Invesco PowerShares Capital Management LLC is the investment advisor for the Fund (''Adviser''). Invesco Advisers, Inc. is the sub-adviser for the Fund (''Invesco'' or ''Sub-Adviser''). The Bank of New York Mellon (''BNYM'' or ''Custodian'') will be the administrator, custodian and transfer agent for the Fund. Invesco Distributors, Inc. will be the Fund's distributor (''Distributor'').

Commentary .06 to Rule 8.600 provides that, if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect a ''fire wall'' between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio.[7] In addition, Commentary .06 further requires that personnel who make decisions on the open-end fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the open-end fund's portfolio. The Adviser and Sub-Adviser each is not registered as a broker-dealer but is affiliated with a broker-dealer. The Adviser and Sub-Adviser each has implemented and will maintain a fire wall with respect to its affiliated broker-dealer regarding access to information concerning the composition and/or changes to the Fund's portfolio. In the event (a) the Adviser or Sub-Adviser becomes registered as a broker-dealer or newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser becomes registered as a broker-dealer or newly affiliated with a broker-dealer, it will implement a fire wall with respect to its relevant personnel or such broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to

[38] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The Commission has previously approved listing and trading on the Exchange of actively managed funds under Rule 8.600. *See, e.g.,* Securities Exchange Act Release Nos. 57801 (May 8, 2008), 73 FR 27878 (May 14, 2008) (SR–NYSEArca–2008–31) (order approving Exchange listing and trading of twelve actively-managed funds of the WisdomTree Trust); 66321 (February 3, 2012), 77 FR 6850 (February 9, 2012) (SR–NYSEArca–2011–95) (order approving listing and trading of PIMCO Total Return Exchange Traded Fund); 66670 (March 28, 2012), 77 FR 20087 (April 3, 2012) (SR–NYSEArca–2012–09) (order approving listing and trading of PIMCO Global Advantage Inflation-Linked Bond Strategy Fund).

[5] A Managed Fund Share is a security that represents an interest in an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1) (''1940 Act'') organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by its investment adviser consistent with its investment objectives and policies. In contrast, an open-end investment company that issues Investment Company Units, listed and traded on the Exchange under NYSE Arca Equities Rule 5.2(j)(3), seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index or combination thereof.

[6] The Trust is registered under the 1940 Act. On May 20, 2016, the Trust filed with the Commission an amendment to its registration statement on Form N–1A under the Securities Act of 1933 (15 U.S.C. 77a) (''Securities Act'') and the 1940 Act relating to the Fund (File Nos. 333–147622 and 811–22148) (the ''Registration Statement''). The description of the operation of the Trust and the Fund herein is based, in part, on the Registration Statement. In addition, the Commission has issued an order granting certain exemptive relief to the Trust and the Adviser (as defined below) under the 1940 Act. *See* Investment Company Act Release No. 28171 (February 27, 2008) (File No. 812–13386) (''Exemptive Order''). The Fund will be offered in reliance upon the Exemptive Order issued to the Trust and the Adviser.

[7] An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the ''Advisers Act''). As a result, the Adviser and Sub-Adviser and their related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. The Exchange represents that the Adviser and its related personnel are subject to Investment Advisers Act Rule 204A–1. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.